

Message Text

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ACTION EUR-25

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NSAE-00 PA-04 RSC-01 PRS-01 SPC-03 USIA-15 TRSE-00

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C O N F I D E N T I A L USNATO 5362

E.O. 11652: GDS

TAGS: PFOR, NATO, LY

SUBJ: LARG CLAIM TO GULF OF SIRTE

REF: USNATO 5218 (NOTAL)

1. SUMMARY. FURTHER POLADS DISCUSSION NOVEMBER 6 OF POSSIBLE ALLIED RESPONSES TO LARG CLAIM OF GULF OF SIRTE AS PART OF LIBYAN TERRITORY CENTERED ON CRAFT NOTE CIRCULATED BY UK DEL (TEXT BELOW). ON PERSONAL BASIS, SEVERAL REPOS INDICATED THAT THEIR AUTHORITIES MIGHT BE ABLE TO SUPPORT RESPONSE ALONG LINES PROPOSED BY UK. CANADA AND ICELAND RULED OUT PARTICIPATION IN COMMON APPROACH AND NORWAY TOOK CAUTIOUS POSITION. SUBJECT WILL BE DISCUSSED AT NOVEMBER 13 MEETING, AT WHICH TIME WE WILL CONTINUE TO BE GUIDED BY STATE 207934. END SUMMARY.

2. UK REP SAID LONDON CONTINUED TO SEE NEED FOR RESPONSE TO LARG NOTE CLAIMING GULF OF SIRTE AS LIBYAN TERRITORY AND SAID THAT LONDON BELIEVED COMMON ALLIED RESPONSE WOULD BE USEFUL. AS INDICATION OF TYPE OF RESPONSE LONDON CONSIDERING, HE CIRCULATED FOLLOWING DRAFT NOTE:
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BEGIN TEXT;

"(INTRODUCTORY FORMULA) AND WITH REFERENCE TO CIRCULAR NOTE NO 3855 OF 9 OCTOBER HAVE THE HONOUR TO STATE THE FOLLOWING.

THE GOVERNMENT OF ... DO NOT RECOGNISE OR ACCEPT THAT THE GULF OF SIRTE SOUTH OF A LINE DRAWN ALONG LATITUDE 32 DEG 30" NO IS PART OF LIBYAN TERRITORY OR FALLS UNDER LIBYAN SOVEREIGNTY. THE GOVERNMENT OF ... WILL CONTINUE TO REGARD THE TERRITORIAL SEA OF LIBYA AS BEING MEASURED FROM THE COAST.

WITH REGARD TO THE REASONS CONTAINED IN THE CIRCULAR NOTE FOR THE LIBYAN CLAIM, IT IS NOT ACCEPTED THAT THROUGHOUT HISTORY LIBYA HAS EXERCISED SOVEREIGNTY OVER THE GULF WITHOUT ANY DISPUTE. ON THE CONTRARY, THE WATERS OF THE GULF HAVE FORMED PART OF THE HIGH SEAS WHERE THE SHIPS OF ALL NATIONS HAVE EXERCISED THEIR RIGHTS UNDER INTERNATIONAL LAW WITHOUT THREATENING THE SECURITY OF LIBYA. NO EVIDENCE HAS BEEN FOUND OF A CLAIM THAT THE GULF IS A HISTORIC BAY OR SUBJECT TO ANY SPECIAL REGIME AS LIBYAN HISTORIC WATERS. IN THIS CONNECTION, THE GOVERNMENT OF LIBYA WILL BE AWARE OF THE STUDIES MADE BY THE UNITED NATIONS OF THE JURIDICAL REGIME OF HISTORIC WATERS, INCLUDING BAYS.

THE GOVERNMENT OF ... CONSIDER THAT THE DRAWING IN THIS CASE OF A STRAIGHT BASELINE, 271 NAUTICAL MILES IN LENGTH AND FOLLOWING A PARALLEL OF LATITUDE BETWEEN POINTS ON TWO GENTLY CURVING COASTS, IS CONTRARY TO THE RULES OF INTERNATIONAL LAW. ACCORDINGLY, THE GOVERNMENT OF ... PROTEST AGAINST THE DECLARATION CONTAINED IN CIRCULAR NOTE NO. 3855 AND RESERVE ALL THEIR RIGHTS, AS WELL AS THOSE OF THEIR NATIONAL AND SHIPS FLYING THEIR FLAG, IN THE AREA.

(CLOSING FORMULA)."
END TEXT

E. RESPONSE TO UK DRAFT NOTE WAS MIXED, ALTHOUGH MOST REPS THOUGHT THEIR AUTHORITIES WOULD BE GENERALLY SYMPATHETIC. ITALIAN REP SAID HE AGREED ENTIRELY WITH SUBSTANCE OF UK NOTE
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AND ON NEED FOR PROMPT REPLY TO LARG. HIS ONLY PROBLEM, HE SAID, WAS THE WORD "PROTEST" IN LAST SENTENCE OF UK DRAFT, USE OF WHICH HE THOUGHT MIGHT BE "INOPPORTUNE" GIVEN CURRENT SITUATION IN MIDDLE EAST. ON PERSONAL BASIS, HE SUGGESTED THAT TEXT SIMPLY READ "RESERVES ALL RIGHTS." FRG REP ADVISED THAT BONN WAS PREPARING NOTE RESERVING POSITION ON LARG ACTION AND ADDED THAT HE BELIEVED BONN COULD ACCEPT MUCH OF UK NOTE. ITALIAN SUGGESTION ON ELIMINATION OF WORD "PROTEST" WOULD PROBABLY BE FAVORED BY BONN, HE SAID, BELGIAN REP SAID UK NOTE CONFORMED TO BRUSSELS' LEGAL POSITON BUT ADDED THAT NO DECISION HAD BEEN TAKEN REGARDING FORM OF REPLY TO LARG NOTE. NETHERLANDS REP SAID HE BELIEVED THE HAGUE WOULD SUPPORT UK DRAFT WITH AMENDMENT PROPOSED BY ITALIAN REP.

4. IN RARE INTERVENTION, ICELAND REP, SPEAKING ON INSTRUCTIONS, NOTED ALLIES HAD PREVIOUSLY ENCOUNTERED DIFFICULTIES IN HARMONIZING POSITIONS ON LOS ISSUES IN VIEW "BASIC DIFFERENCES." ICELAND WAS PREPARED TO CONSULT ON SUCH ISSUES IN NATO, HE SAID, BUT WAS NOT PREPARED JOIN IN ANY COMMON APPROACH TO LARG. HE ALSO OBSERVED THAT ICELAND HAD NO FORMAL DIPLOMATIC RELATIONS WITH LARG. NORWEGIAN REP SAID OSLO BELIEVED REPLY TO LARG ACTION WAS NEEDED ALTHOUGH NO DECISION HAD BEEN TAKEN ON FORM OF THIS REPLY. HE NOTED, HOWEVER, THAT NORWAY WAS NOT IN FULL AGREEMENT WITH SOME OTHER ALLIES ON BASIC ISSUES INVOLVED. CANADIAN REP SAID OTTAWA AGREED LARG ACTION WAS IN CONTRAVENTION OF INTERNATIONAL LAW. HOWEVER, IN VIEW MIDDLE EAST SITUATION AND CANADIAN POSITION ON SPECIFIC ISSUES INVOLVED, OTTAWA DID NOT INTEND PROTEST TO LARG. IN THIS CONNECTION, CANADIAN REP POINTED OUT THAT THERE HAD BEEN NO COMMON NATO PROTESTS WHEN VARIOUS LATIN AMERICAN STATES DRASTICALLY EXTENDED THEIR CLAIMED TERRITORIAL WATERS. WITH REFERENCE TO LATTER POINT, UK REP ARGUED THAT ACTIONS BY LATIN AMERICANS AND LARG WERE QUALITATIVELY DIFFERENT SINCE LATIN AMERICANS HAD EXTENDED LIMITS OF TERRITORIAL WATERS WHILE LARG NOW CLAIMED GULF OF SIRTE AS INTERNAL WATERS.

5. SUBJECT WILL BE ON AGENDA OF NOVEMBER 13 MEETING, AT WHICH TIME UK DEL HOPES TO RECEIVE RACTIONS FROM CAPITALS TO PROPOSED NOTE. UK REP ADVISED AT NOVEMBER 6 MEETING THAT DRAFT NOTE REPRESENTS RESPONSE LONDON CURRENTLY INTENDS MAKE TO LARG IF ALLIES UNABLE REACH AGREEMENT ON COORDINATED REPLY. HOWEVER, HE UNDERTOOK TO REFER ITALIAN PROPOSAL ON REPLACEMENT OF WORD CONFIDENTIAL

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"PROTEST" TO LONDON.

6. COMMENT: MISSION WOULD WELCOME DEPARTMENT'S COMMENTS ON UK NOTE AND ANY AVAILABLE INFORMATION ON TIMING AND CONTENT OF U.S. NOTE TO LARG. ON BASIS NOVEMBER 6 DISCUSSION, WE SEE NO CHANCE THAT ALL ALLIES WILL AGREE TO COMMON ACTION, MUCH LESS COMMON TEXT. FRENCH REP WAS NOTABLY SILENT. MCAULIFFE

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